



Clackmannanshire Council

Housing Service

Antisocial Behaviour Policy

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**Clackmannanshire
Council**

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Comhairle Siorrachd
Chlach Mhanann

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1. Scope of the Policy

Clackmannanshire Council aims to ensure that the Council's housing estates are attractive, well-maintained, safe and secure living environments. This includes dealing with antisocial behaviour that interferes with tenants' right to quiet enjoyment of their homes and the surrounding neighbourhood.

This policy provides a framework of how Clackmannanshire Council's Housing Service will aim to tackle and resolve antisocial behaviour that occurs in association with Council tenancies, working in partnership with relevant internal departments and external partner agencies and organisations.

The Clackmannanshire Council's Antisocial Behaviour Policy links in with and supports the aims of Clackmannanshire's Antisocial Behaviour Strategy and Clackmannanshire Council's Evictions Policy as well as the principles of Clackmannanshire's Family Wellbeing Partnership.

2. Aims of the Policy

The overarching aim of the policy is to reduce the occurrence and the severity of antisocial behaviour within Council tenancies by employing an early intervention approach to dealing with antisocial behaviour.

The specific aims of this policy are to:

- Ensure that Clackmannanshire Council's Housing Service effectively responds to antisocial behaviour within Council tenancies;
- Enforce Clackmannanshire Council's Tenancy Agreement;
- Provide and signpost victims and witnesses of antisocial behaviour to the relevant support;
- Assist perpetrators of antisocial behaviour to remedy and change their behaviour and help them sustain their tenancies;
- Support partnership working in responding to and tackling antisocial behaviour;
- For all actions aimed at preventing, responding and resolving antisocial behaviour to meet all legislative requirements and statutory guidelines.

3. Legislative Framework

Clackmannanshire Council will ensure that this policy adheres to all legislative requirements under relevant legislation and gives due regard to statutory guidance.

The main legislative framework for addressing and tackling antisocial behaviour is set out in the following acts:

- Antisocial Behaviour etc. (Scotland) Act 2004



- Data Protection Act 2018
- Equality Act 2010
- Freedom of Information (Scotland) Act 2002
- Homelessness etc. (Scotland) Act 2003
- Housing (Scotland) Act 2001
- Housing (Scotland) Act 2014

4. Definition of Antisocial Behaviour

Antisocial Behaviour etc. (Scotland) Act 2004 states that antisocial behaviour occurs where a person:

- a) Acts in a manner that causes or is likely to cause alarm or distress; or
- b) Pursues a course of conduct that causes or is likely to cause alarm or distress,

to at least one person who is not of the same household; “conduct” includes speech, and a course of conduct must involve conduct on at least 2 occasions.

Antisocial behaviour can mean different things to different people and everyone can have a different idea of what antisocial behaviour is and how severe it is. Differences in age, beliefs, health considerations and values may mean that what one individual considers being antisocial behaviour may not be viewed as such by someone else.

Clackmannanshire Council prohibits its tenants from harassing or behaving antisocially against, or causing damage to the property of, any person in the neighbourhood. The tenancy agreement sets out a list of prohibited activities that the tenant must refrain from doing. Examples of what the Council considers to be antisocial behaviour may include, but is not limited to:

- Drug and alcohol-related antisocial behaviour;
- Failing to control pets;
- Litter and fly-tipping;
- Noise nuisance;
- Vandalism and graffiti;
- Verbal abuse and harassment.

5. Early Intervention and Provision of Support

The Housing Service is committed to employing an early intervention approach to dealing with antisocial behaviour as soon as it is reported to us by providing the relevant services and support.

At the start of a tenancy, the Tenancy Management Team responsible for the management of Council’s housing tenancies will aim to establish a strong relationship with its tenants. The Team will



aim to ensure that the tenants are informed of all of their responsibilities associated with maintaining the tenancy as well as the responsibilities that the Council has towards the tenants.

The Tenancy Management Team will provide estate management services by regularly monitoring, inspecting and recording the condition of Council housing estates and taking the appropriate action to resolve any issues that may arise. It will aim to address any antisocial behaviour on estate land such as fly-tipping, graffiti, damage to property and vandalism in a timely manner.

5.1. Complainant Support

Where antisocial behaviour has been reported, the Tenancy Management Team will explain to the complainant how the case will be handled, how the responsible Officer may proceed with the investigation and the potential actions arising from the investigation.

Where appropriate, the Team will provide the complainant with advice on available support services.

5.2. Perpetrator Support

Where antisocial behaviour has been established, the Team will engage with the perpetrator to address and change their behaviour.

The Team will aim to ensure that the relevant information, advice and/or support are given to the tenant.

Where all other remedies have been exhausted and eviction action is due to take place due to the persistent antisocial behaviour, the Tenancy Management Team will advise the tenant of the homelessness duties that the Council has towards them.

6. Handling Antisocial Behaviour Reports

The Housing Service's Tenancy Management Team is responsible for investigating and managing antisocial behaviour in association with Council tenancies.

The Officers within the Team will adopt a person-centred approach to responding to and investigating any antisocial behaviour reports which considers the individual circumstances of the victims, witnesses and the perpetrator of antisocial behaviour.



7. Reporting Antisocial Behaviour

Antisocial behaviour should be reported as soon as it arises or is discovered. Early reporting is vital in order to be able to tackle any unacceptable behaviour at the earliest opportunity to prevent it from escalating and causing any further damage.

The complainant must provide contact details for the Tenancy Management Team to successfully progress a report and/or give advice on the report and effectively tackle the ongoing issue. The complainant must provide all relevant information, including the details of the perpetrator, the date, time and the location, the nature, and the frequency of the antisocial behaviour in question.

All personal details of the complainant will be held in confidence in accordance with the Data Protection Act 2018. In carrying out investigations, the Team will never reveal the identity of or disclose personal information of individuals reporting antisocial behaviour without the consent of the individual.

Please note that the Tenancy Management Team can only deal with antisocial behaviour that occurs in association with Council housing tenancies.

Where antisocial behaviour reports are received in relation to private sector tenants and which negatively impacts Council tenants, Housing Service may only proceed subject to the involvement of the Council's Private Housing Sector Team and the landlord of the private property.

Where antisocial behaviour reports are made against owner occupiers and which negatively impact Council tenants, the Housing Service may only proceed to deal with the antisocial behaviour where it is deemed to be severe and subject to the assistance from the Council's Legal Service.

Any antisocial behaviour occurring in association with another tenure type which does not impact Council tenants will not be dealt with the Tenancy Management Team and should be reported to Police Scotland.

8. Receiving Reports

The Housing Officer will assess the report once it has been received. All reports will be dealt on an individual basis, and may not require investigation in the first instance. If the Housing Officer assesses that the report does not constitute antisocial behaviour, the Officer will not open a case, but appropriate advice and information may be provided to the complainant.

Certain reports including, but not limited to:

- Children or young people gathering socially or playing in the street;
- Odours;
- Parking issues;
- Personal disputes between neighbours;



- Regular domestic noises

Are not classed as antisocial behaviour and will not be investigated by Clackmannanshire Council.

Antisocial behaviour relating to criminal activity, including suspected drug dealing and cannabis use are not dealt with by the Council's Tenancy Management Team and should be reported to Police Scotland in the first instance. The Team will only take appropriate action in relation to criminal matters where the tenant has been charged or convicted of tenancy-related criminal behaviour.

The Officer will advise the individual reporting antisocial behaviour if the Tenancy Management Team is not responsible for dealing with the report and will direct the complainant to the appropriate agency to make the report.

9. Response timelines

The Officer responsible for the case will aim to acknowledge and respond to the initial report within 5 working days of the complainant lodging the report.

Subsequent investigation and enforcement as well as resolution timescales are determined by the nature and the severity of each case and are dealt with on a case-by-case basis, subject to the discretion of the responsible Officer.

10. Investigating reports

The Officer will carry out an initial investigation and will gather all information relevant to the case, such as previous antisocial behaviour associated with the address and any previous involvement by partner agencies.

To assist evidence gathering and reach a resolution as soon as possible, the complainant and any witnesses must keep reporting any occurrences of antisocial behaviour and use the evidence-gathering tools provided by the Tenancy Management Team.

11. Investigation Outcomes

Following the investigation, the Officer will then decide on how to proceed with the case, subject to the facts, the evidence and other surrounding circumstances of the case. The Officer will take appropriate, reasonable and proportionate action accordingly based on the individual circumstances of the case.



Subject to exceptions and/or where the antisocial behaviour is found to be severe, the Tenancy Management Team will use non-legal remedies first to resolve the antisocial behaviour in question, before seeking legal remedies as a last resort.

If the report is substantiated, the responsible Officer will identify the most appropriate action with the aim to resolve the situation, taking into account any previous actions taken, the nature and the severity of behaviour concerned and the perpetrator's response to the initial investigation.

11.1. Non-legal Remedies

Non-legal remedies may include:

- Provide advice and information;
- Issue a Tenancy Warning Notice;
- Sign an Acceptable Behaviour Agreement.

11.1.1. Advice and Information

The Officer may provide the perpetrator with the relevant advice and information if the perpetrator is unaware that their behaviour is causing a nuisance. The Officer will explore what the perpetrator might be doing to resolve any issues, discuss any support needs, and explain what could happen if further antisocial behaviour incidents were to occur.

11.1.2. Tenancy Warning Notice

The perpetrator may be issued with a tenancy warning notice for behaving in an antisocial manner. The tenancy warning notice formally notifies the offending tenant of the breach of the terms of their tenancy agreement.

Once any antisocial behaviour reports have been corroborated, the Officer will issue a tenancy warning notice to the tenant.

Tenancy warning notices may be used as evidence to support the use of any legal remedies such as an application for an ASBO or eviction action.

11.1.3. Acceptable Behaviour Agreement

Acceptable Behaviour Agreement (ABA) is a voluntary agreement made between the perpetrator of antisocial behaviour, the Council, Police Scotland and any other relevant departments and partner agencies.



ABA establishes the terms and conditions that the perpetrator agrees to adhere to, the list of actions that they agree not to do and the occurring antisocial behaviour they agree to stop, and the relevant support they agree to engage with.

ABA is designed to help the perpetrator reduce, prevent and change their involvement in antisocial behaviour by providing appropriate support before any legal action is taken. While an ABA in itself is not a legally enforceable agreement, any breaches of the ABA may lead to legal action.

11.2. Legal Remedies

Where all non-legal remedies have been exhausted, the Tenancy Management Team may pursue legal action to stop antisocial behaviour from continuing. Pursuing legal remedies may be a lengthy process and any outcomes may depend on the evidence provided to support the case. The Tenancy Management Team will liaise with the Council's Legal Services where it decides to take legal action.

Legal remedies may include:

- Applying for an Antisocial Behaviour Order (ASBO);
- Converting a Scottish Secure Tenancy (SST) to a Short Scottish Secure Tenancy (SSST);
- Applying for an eviction order.

11.2.1. Antisocial Behaviour Order (ASBO)

An ASBO is a civil order made by the Court, prohibiting a person from engaging in antisocial behaviour or other specified activities within a designated area. The Council can apply to the Court for an ASBO to be granted against a person aged 12 and over.

Before proceeding with an application for an ASBO, the Council must be able to prove that:

- The antisocial behaviour is persistent and an ASBO is required to protect the complainant, neighbours and the wider community from the effects of the perpetrator's behaviour;
- All other options to resolve the behaviour have been exhausted;
- The perpetrator has been made aware that their behaviour is unacceptable, and has refused to change it;
- The perpetrator has been made aware that an ASBO is going to be applied for, and has been advised of their rights.
- Applying for an ASBO is proportionate to the antisocial behaviour occurring.

Where an ASBO is sought for an individual aged 12 to 18, the Council will consult the Principal Reporter before making the application.



If the Court grants a full or an interim ASBO, the responsible officer will notify the complainant of the order and the terms contained within it. A breach of a full or an interim ASBO is a criminal offence and any breaches will be investigated by Police Scotland.

11.2.2. Conversion of SST to SSST

The Council may convert the tenant's Scottish Secure Tenancy to a fixed-term Short Scottish Secure Tenancy where:

- the tenant, or a member of their household, is subject to a full ASBO or;
- the tenant, a member of their household or anyone visiting the property, has acted in an antisocial manner in the last three years prior to seeking conversion.

A SSST will last for an initial period of 12 months, with a possibility to extend it for a further 6 months. To extend the tenancy, the Council must serve a notice on the tenant, stating the reason for the extension at least 2 months before the extension.

To convert the tenancy from a SST to a SSST, the Council must provide the tenant with the notice advising them of the conversion. The notice must state the following:

- The tenancy will be offered as a SSST;
- Name of the individual who is subject to the ASBO;
- Where an ASBO does not apply, the name of the individual who has behaved antisocially, the specific behaviour in question and the Council's reasons for serving the notice;
- Explanation of the tenant's right of appeal to the Court if they are not satisfied with the conversion of the tenancy to a SSST.

The tenancy will automatically convert to a SST at the end of the SSST term if the Council does not take any subsequent action to repossess the tenancy.

11.2.3. Eviction

If all other remedies have been exhausted, the perpetrator has refused to engage in offered support, and their behaviour has not improved, the Council may apply to the Court for a decree for repossession to be granted. A decree for repossession will be used to formally end the tenancy agreement between the Council and the offending tenant and will be used to evict the tenant from the property. Eviction action will be only used as a last resort. For further information on evictions, please see Clackmannanshire Council's Eviction Policy.

12. Case Closure



Clackmannanshire Council defines antisocial behaviour cases to be resolved where appropriate action has been taken to investigate and address the antisocial behaviour in question and the complainant has been advised either verbally or in writing of the outcome of the case.

Appropriate action may include, but is not limited to:

- Non-legal remedies are sought, and no further complaints are received;
- Legal action is pursued;
- Investigation was carried out, but no evidence/insufficient evidence was found.

13. Equal Opportunities and Diversity

Clackmannanshire Council is committed to the elimination of unlawful discrimination, advancing equality of opportunity and fostering good relations between people.

The Council believes that equality of opportunity should be a guiding principle in all of its activities. The Council aims to ensure that its commitment to equality is embedded in all council services and in the organisations that it funds.

In accordance with the Equality Act 2010, the Council is actively working towards the elimination of policies and practices that discriminate unfairly on grounds including age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race including colour, nationality, ethnic or national origin; religion or belief; sex; and sexual orientation. For example, this legislation is incorporated into the decision-making process of housing officers in the eviction process.

14. Privacy Statement

Clackmannanshire Council must adhere with its legal obligations under Data Protection Legislation as set out in the Data Protection Act 2018 and UK General Protection Regulation (GDPR).

In order to provide the required and/or requested services, the Council will collect, store and process relevant personal information or data.

Personal information may also be shared with other partner agencies and organisations.

Personal information will be kept securely, as long as required by law and/or by specific service requirements. Once the data is no longer required, it will be securely disposed of. The Council has a Record Retention Schedule which sets out the period of time and reasons for keeping particular records. The Retention Schedule is available on request.



Under the Data Protection Act 2018 and the Freedom of Information(Scotland) Act 2002, individuals have the right to access personal information and data held about them by Clackmannanshire Council as well as the right to access information from records held by the Council.

To submit a Subject Access or Freedom of Information request, please follow [the link](#).

To make a complaint in relation to the Council's handling and processing of personal data and information, please contact the [Information Commissioner's Office](#).

For further information on Clackmannanshire Council's data protection practices, please visit the Council's [Data Protection Statement](#). For the Council's Data Protection Policy, please follow the [link](#). For further information on freedom of information laws, please visit the [Scottish Information Commissioner webpage](#).

15. Complaints

If the tenant is dissatisfied with the provided services and/or the standards of service, please follow the Council's Complaints Procedure. Complaints can be made in person, in writing, by email or online. For further information on the Complaints Procedure and how to make a complaint, please visit the [Council's Complaints Procedure webpage](#).

If the tenant remains dissatisfied with the final decision or the way the complaint has been handled following the Council's Complaints Handling Procedure, they can make a complaint to the Scottish Public Services Ombudsman (SPSO) by completing a [complaints form found online](#) or calling on 0800 377 7330.

For further information on how to make a complaint to SPSO, please visit the [SPSO website](#).

16. Monitoring and Reviewing

The policy will be continuously monitored to ensure that it is performing efficiently against the aims set out in the policy.

The Council will review and evaluate this policy every 3 years to ensure the adherence to the relevant legislation and statutory guidance as well as changes in organisational practices and policies.